

Appl. No. 09/903,217
Amd. Dated October 4, 2005
Reply to Office Action of September 8, 2005

REMARKS/ARGUMENTS

Reconsideration of the rejections set forth in the Final Office Action dated September 8, 2005 is respectfully requested.

Claims 21, 22, 24-30, and 32-54 have been allowed. Claims 8 and 18 have been objected to. Claims 1, 2, 4-7, 9-12, 14-17, 19 and 20 have been rejected. As such, claims 1, 2, 4-12, 14-22, 24-30, and 32-54 are currently pending.

Allowable Subject Matter

Claims 21, 22, 24-30, and 32-54 have been allowed. Claims 8 and 18 have been objected to. The Examiner has objected to claims 8 and 18 as being dependent upon a rejected base claim, but has indicated that claims 8 and 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As the Applicant believes that the independent claims from which claims 8 and 18 depend are allowable over the cited art, the Applicant has chosen not to amend claims 8 and 18 to be rewritten in independent form at this time.

Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103

Claims 1, 4, 6, 7, 9, 10, 11, 14, 16, 17, and 19-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Elliot et al. (U.S. Patent No. 6,895,091), herein after "Elliot." Claims 2, 5, 12, and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliot as applied to claims 1, 4, 11, and 14 above, and further in view of Naranjo et al. (U.S. Patent Publication No. 2003/0076816), herein after "Naranjo."

Claim 1 recites a method for computing a primary path within a mixed-protection network that includes identifying a plurality of potential paths which are characteristically similar

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between a source node and a destination node, and selecting a first potential path from the plurality of potential paths. The paths are characteristically similar in that they have similar protection characteristics. The method also includes identifying a second potential path which has different protection characteristics from the first potential path. The first potential path is compared to the second potential path for use as an actual path while the other characteristically similar paths between the source node and the destination node are not considered.

The Examiner has argued that Elliot teaches the method of claim 1. On pages 3-4 of the Final Office Action dated September 8, 2005, the Examiner has argued that Elliot anticipates comparing a first potential path with a second potential path for use as an actual path while other potential paths that are characteristically similar are not considered for use. In his argument, the Examiner states:

"Figure 8, illustrates a forwarding table containing data for forwarding packet data, received at node B to any other node with the network via either protected or unprotected links. Figure 9, illustrates a forwarding table with protected links only. As evident from the above-mentioned figures, if node B wished to communicate with node D for example, it can either chose the unprotected path with next hop node C or the protected path with the next hop node F."

It is respectfully submitted that the Examiner has not addressed the limitation that other characteristically similar paths are not considered for use as the actual path between a source node and a destination node. Figures 8 and 9, which have been cited by the Examiner, do not appear of a plurality of paths arranged between a source node and a destination node that are characteristically similar with at least one similar protection characteristic. Rather, Figures 8 and 9 appear to show that there is only one path between a source and a destination with any given protection characteristic.

Using the Examiner's argument, if node B wished to communicate with node D, it can choose the unprotected path with next hop node C ("first potential path") or it can choose the protected path with next hop node F ("second potential path"). The first potential path of claim 1 requires that it is one of a plurality of potential paths arranged between a source node and a destination node which are characteristically similar. Neither the unprotected path between node

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B and node D nor the protected path between node B and node D appear to be one of a plurality of potential paths arranged between node B and node D that are characteristically similar. There is no teaching or suggestion of there being more than one protected path between node B and node D, or of there being more than one unprotected path between node B and node D.

Although the Examiner has argued that Elliott teaches of identifying a plurality of paths that are characteristically similar (page 2 of Final Office Action dated September 8, 2005), there is no teaching or suggestion in Elliott that one of the so-called plurality of paths in Elliott that are characteristically similar (a first potential path) is compared with another potential path (a second potential path) that is characteristically different for use as an actual path while the other characteristically similar paths are not considered for use. That is, Elliott does not teach considering a first potential path and a second potential path, but not other potential paths that are characteristically similar. Therefore, claim 1 is believed to be allowable over Elliott for at least this reason.

Claims 2 and 4-10 each depend either directly or indirectly from claim 1 and are, therefore, each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 1. Each of these dependent claims recite additional limitations which, when considered in light of claim 1, are believed to further distinguish the claimed invention over the cited art. By way of example, the Examiner has indicated that claim 8 contains allowable subject matter. It is noted that claim 6 recites identifying substantially all potential paths arranged between a source node and a destination node. Elliott appears to disclose, at best, choosing between an unprotected path and a protected path. There is no teaching of identifying substantially all potential paths between a source and a destination. As such, claim 6 is also believed to be allowable over Elliott for at least this reason as well.

Independent claim 11 recites similar limitations as recited in claim 1. Therefore, claim 11 and its respective dependents are believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 1.

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Conclusion

For at least the foregoing reasons, the Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 868-4096.

Respectfully submitted,



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